

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-188-C - ORDER NO. 2005-439  
AUGUST 25, 2005

IN RE: Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Horry Telephone Cooperative, Inc. Concerning Interconnection and Resale under the Telecommunications Act of 1996.	)	ORDER DENYING
	)	PETITION FOR
	)	REHEARING OR
	)	RECONSIDERATION
	)	
	)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on a Petition for Rehearing or Reconsideration filed by Time Warner Cable Information Services (SC), LLC (“Time Warner”) for Commission reconsideration of Order No. 2005-383 issued in this matter on July 20, 2005. In that Order, this Commission denied Time Warner’s request to intervene as a party in the arbitration proceeding between MCImetro Access Transmission Services, LLC (“MCI”) and Horry Telephone Cooperative, Inc. (“HTC”).

In its Petition for Reconsideration, Time Warner asserts that its substantial rights have been prejudiced. Time Warner specifically asserts a right to participate as a party of record in a contested case which, Time Warner alleges, directly affects its contractual rights.

As this Commission stated in Order No. 2005-383, arbitration proceedings filed pursuant to Section 252 of the Telecommunications Act of 1996 (“the Act”) are not the same as contested cases that the Commission presides over pursuant to the South

Carolina Administrative Procedures Act (the “APA”). Rather, arbitration proceedings are a mandatory dialogue to force an agreement between two parties who have been unable to come to an agreement through voluntary negotiation. Arbitration is the culmination of the negotiation process contemplated under Sections 251 and 252 of the Act. The fact that a third party may have some interest in the agreement resulting from the arbitration does not mean that party has a right to participate in the arbitration proceeding. There is nothing contained in Time Warner’s Petition for Reconsideration which convinces this Commission that it’s initial ruling in this matter was incorrect.

Time Warner’s status in the instant arbitration proceeding is that of a potential future customer of MCI. Time Warner is not a party to the agreement between MCI and Horry and has not been a participant in the negotiation process contemplated by Sections 251 and 252 of the Telecommunications Act of 1996. While this Commission understands the arguments proffered by Time Warner of its interest in this arbitration, we find that this interest is too distant to allow it to intervene as a third party. The Petition for Reconsideration filed by Time Warner must, therefore, be denied.

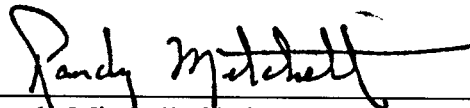
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This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
\_\_\_\_\_  
Randy Mitchell, Chairman

ATTEST:

  
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G. O'Neal Hamilton, Vice Chairman

(SEAL)